

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHARLES BO MUMPHREY,

Defendant.

Case No. 2:12-cr-00455-HDM-PAL

ORDER

On May 27, 2020, the court entered an order denying the defendant's motion for sentence reduction and dismissing his motion to the extent it arose under 28 U.S.C. § 2255. Pursuant to Federal Rule of Appellate Procedure 4(b)(1)(A), any appeal of the court's order denying his motion for sentence reduction was required to be filed no later than June 10, 2020. The defendant's notice of appeal, apparently filed on June 26, 2020, is therefore untimely. (ECF No. 256 at 7).

Following remand by the Court of Appeals for the limited purpose of allowing the defendant to file a motion for notice of appeal pursuant to Federal Rule of Appellate Procedure 4(b), the defendant has filed his motions for relief. (ECF Nos. 261 & 262). The government has not opposed the defendant's motions, and the time for doing so has expired.

In support of his request, the defendant asserts that his time in the law library has been severely limited due to the COVID-

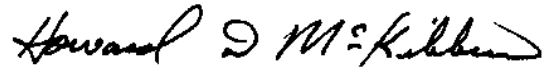
1 19 epidemic. He also points to "the limited resources, national
2 chaos with the U.S.P.S and delivery of mail effecting universally,
3 including prisoners are in effect unfavorably here at USP
4 Florence." (ECF NO. 262 at 2).

5 The defendant has set forth two grounds that could have
6 delayed the filing of his notice of appeal, including significant
7 delays in mail delivery and limited access to the law library. In
8 fact, based on the date of the notice of appeal and the date it
9 was received by the Court of Appeals, it appears that the notice
10 itself took more than two weeks to reach the Court of Appeals,
11 lending support to the defendant's argument that the mail has been
12 significantly delayed. In light of these circumstances, and the
13 government's failure to oppose the defendant's motion, the court
14 finds good cause for the defendant's failure to file a timely
15 notice of appeal. The motion for extension of time to file a notice
16 of appeal (ECF Nos. 261 & 262) is therefore GRANTED. The appeal
17 filed on June 26, 2020, is therefore deemed timely.

18 The Clerk of the Court shall transmit a copy of this order to
19 the Court of Appeals for the Ninth Circuit.

20 IT IS SO ORDERED.

21 DATED: This 29th day of September, 2020.

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24 UNITED STATES DISTRICT JUDGE
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